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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

DAVID M. BAGLEY,

Plaintiff(s),

v.

ROBERT M. BEVILLE, et al.,

Defendant(s).

2:13-CV-1119 JCM (CWH)

ORDER

Presently before the court is a motion to partially dismiss filed by defendant G. Steven Dawson. (Doc. # 101). Also before the court is a motion to partially dismiss filed by defendants Robert M. Beville, James L. George, Thomas L. Gustafson, and Charles W. Wolcott. (Doc. # 102). Though the response deadlines have passed, plaintiff David M. Bagley has not filed an opposition

In the instant motions, defendants argue that count II of plaintiff's amended complaint, (doc. # 98, pp. 27-29), should be dismissed pursuant to Federal Rule of Civil Procedure 12(b)(6).

Defendants assert that plaintiff cannot maintain a valid claim for aiding and abetting breaches of fiduciary duty because such a claim can be asserted against only non-fiduciaries. As directors of the corporation at the center of this case, defendants claim they were each fiduciaries. Therefore defendants argue this claim is invalid as a matter of law.

Failure to follow the local rules of a district court may constitute a proper ground for dismissal. *United States v. Warren*, 601 F.2d 471, 474 (9th Cir. 1979). "Before dismissing the action, the district court is required to weigh several factors: (1) the public's interest in expeditious

1 resolution of litigation; (2) the court's need to manage its docket; (3) the risk of prejudice to the
2 defendants; (4) the public policy favoring disposition of cases on their merits; and (5) the availability
3 of less drastic sanctions.” *Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995) (internal citation
4 omitted).

5 Local Rule 7-2(d) provides that the failure of a party “to file points and authorities in
6 response to any motion shall constitute a consent to the granting of the motion.” In consideration of
7 the fact that defendants’ status as corporate directors is undisputed, plaintiff’s failure to file an
8 opposition, the interest of expeditious resolution of litigation, the court’s need to manage its docket,
9 the risk of prejudice to defendants, the public policy favoring disposition of cases on their merits,
10 and the availability of less drastic sanctions, the court finds that dismissal of this claim is
11 appropriate.

12 Accordingly,

13 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that defendants’ motions to
14 dismiss (docs. # 101 & 102) be, and the same hereby are, GRANTED.

15 IT IS FURTHER ORDERED that count II of plaintiff’s complaint is DISMISSED as to all
16 defendants.

17 DATED July 10, 2014.

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20 UNITED STATES DISTRICT JUDGE